

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

- - - - -  
ESTATE OF ROGER D. :  
OWENSBY JR., et al., :  
 :  
Plaintiffs, :  
vs. : Case No. 01-CV-769  
 : (Judge S. A. Spiegel)  
CITY OF CINCINNATI, :  
et al., :  
 :  
Defendants. :  
- - - - -

Videotaped deposition of THOMAS HENRY

STREICHER JR., a witness herein, called by the  
plaintiffs for cross-examination, pursuant to the  
Federal Rules of Civil Procedure, taken before me,  
Wendy Davies Welsh, a Registered Diplomate Reporter  
and Notary Public in and for the State of Ohio, at  
the offices of Helmer, Martins & Morgan Co. LPA,  
1900 Fourth & Walnut Centre, 105 East Fourth Street,  
Cincinnati, Ohio, on Monday, December 22, 2003, at  
9:06 a.m.

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1 APPEARANCES:

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1 APPEARANCES (Continued)

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Also present:

Richard W. Grubb, Videographer

Lisa Damstrom, Law Clerk  
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Mr. Roger Owensby

Mr. Shawn Owensby

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1 S T I P U L A T I O N S

2 It is stipulated by and among counsel for the

3 respective parties that the deposition of THOMAS

4 HENRY STREICHER JR., a witness herein, called by the

5 plaintiffs for cross-examination, pursuant to the

6 Federal Rules of Civil Procedure, may be taken at

7 this time by the notary; that said deposition may be

8 reduced to writing in stenotype by the notary, whose

9 notes may then be transcribed out of the presence of

10 the witness; and that proof of the official

11 character and qualifications of the notary is

12 expressly waived.

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1 I N D E X

2 Examination by: Page

3 Mr. Morgan . . . . . 354

4 Mr. Weisenfelder . . . . . 334, 356

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6 E X H I B I T S

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1 relinquished to the Cincinnati -- first Cincinnati  
2 officer on the scene, is that --  
3 MR. HARDIN: Objection.  
4 MR. MORGAN: Object to the form.  
5 A. I'm -- I'm not with you.  
6 Q. Okay.  
7 A. You're losing me here.  
8 Q. Well, okay. Well, let's back up.  
9 MR. FREUND: Isn't -- isn't that a -- a  
10 legal question?  
11 MR. WEISENFELDER: Well, it's a policy.  
12 And whether or not they followed the policy  
13 involves --  
14 MR. FREUND: I'll let you ask it, but I  
15 think it's a --  
16 MR. WEISENFELDER: Well, it may be.  
17 MR. HARDIN: It's legal --  
18 MR. WEISENFELDER: Well --  
19 MR. HARDIN: -- and I'll be objecting.  
20 MR. MORGAN: How come you're so much nicer  
21 to him than you were to me?  
22 MR. FREUND: Because --  
23 MS. GEILER: Don't answer that, Neil.  
24 MR. FREUND: Because I want to be.

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1 MR. HARDIN: I'll -- I'll object to the  
2 reference that this is a policy.  
3 MR. FREUND: Yeah. I -- I just think that  
4 you're asking him a -- a legal question.  
5 MR. WEISENFELDER: Well, if he's --  
6 MR. FREUND: And -- and not a factual  
7 question.  
8 MR. WEISENFELDER: That's fine. Okay.  
9 MR. FREUND: So that's the basis for my --  
10 MR. WEISENFELDER: All right. Well, let  
11 me --  
12 MR. FREUND: -- objection.  
13 MR. WEISENFELDER: Let me go back and  
14 make --  
15 MR. FREUND: And I -- and -- and that's  
16 the last time I'm going to be nice to you also.  
17 MR. WEISENFELDER: Okay. That's fair  
18 enough.  
19 MR. FREUND: All right.  
20 MR. WEISENFELDER: All right.  
21 BY MR. WEISENFELDER  
22 Q. Chief Streicher, what was marked as  
23 Exhibit 78, the Mutual Aid Agreement For Law  
24 Enforcement, that was an agreement that was in

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1 effect as of November 7th, 2000?  
2 A. I don't see this dated anywhere, but I  
3 guess we can assume that it was.  
4 Q. Well, I don't want anybody to assume  
5 anything.  
6 A. Okay.  
7 Q. There's a date on the transmittal page to  
8 you from Sergeant Jeffrey Butler dated October 30th  
9 of 2000.  
10 A. Okay.  
11 Q. Okay. And that transmittal memo lists the  
12 participating agencies within Hamilton County,  
13 correct?  
14 A. Correct.  
15 MR. MORGAN: Object to the form.  
16 Q. Okay. And Cincinnati is -- well, is  
17 Cincinnati part of that agreement?  
18 A. Yes.  
19 Q. Okay. As is Golf Manor?  
20 A. Yes.  
21 Q. Okay. Well, let's go back to page 2 then.  
22 A. Okay.  
23 Q. All right. "Control of any arrested  
24 person, evidence and the crime scene shall be

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1 relinquished to the first available officer from the  
2 jurisdiction within which the crime took place."  
3 What's your understanding of that sentence?  
4 A. That if an officer --  
5 MR. MORGAN: Asked and answered.  
6 THE WITNESS: I'm sorry.  
7 MR. FREUND: Go ahead.  
8 A. If an officer is on duty and has probable  
9 cause to believe that a criminal offense occurred  
10 outside of their own jurisdiction but in the  
11 jurisdiction of one of these cooperating agencies,  
12 that officer can make an arrest --  
13 Q. And --  
14 A. -- for that situation and do whatever's  
15 necessary according -- according to the law.  
16 Q. And what --  
17 A. And then when a --  
18 Q. Wait --  
19 A. -- respondent --  
20 Q. I'm --  
21 A. -- if -- if -- if the -- if the -- when an  
22 officer from the jurisdiction where that offense  
23 occurred arrived there, that that person should  
24 relinquish custody and control of that person to the

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1 officer in the jurisdiction where it occurred.  
2 Q. Whose own -- whose jurisdiction where the  
3 offense occurred, correct?  
4 A. Right. Exactly.  
5 Q. Okay. Let's turn to page 7.  
6 A. Okay.  
7 Q. Paragraph VI C. Do you want to take a  
8 minute to read it?  
9 A. C? Sure.  
10 Q. Pardon me. No. I'm sorry, VI D.  
11 A. What is it?  
12 Q. VI D on the bottom of page 7.  
13 A. Oh, okay. D, okay.  
14 Q. Okay. Have you had an opportunity to read  
15 that?  
16 A. Yes, sir.  
17 Q. For the record, VI D of the -- what was  
18 marked as Exhibit 78 states, "Whenever the law  
19 enforcement employees of one cooperating Agency are  
20 providing police services upon request to another  
21 cooperating Agency they will be under the lawful  
22 direction and authority of the commanding law  
23 enforcement officer of the Agency to which they are  
24 rendering assistance."

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1 Chief, would you agree with me that in  
2 this instance, the Owensby matter, that when the  
3 Golf Manor officers responded to the Cincinnati  
4 jurisdiction they were under the control or  
5 direction of the Cincinnati officers?  
6 MR. HARDIN: Objection.  
7 MR. MORGAN: Foundation, conclusion of  
8 law, speculation.  
9 A. Umm --  
10 Q. Based upon this agreement.  
11 MR. MORGAN: Same objections.  
12 A. I guess I have to ask you in what matters?  
13 I mean, I don't understand what you mean by --  
14 Q. Well, I -- I -- I didn't write the  
15 agreement. I'm asking based upon what you know of  
16 the incident involving Mr. Owensby, knowing how the  
17 Golf off-- Golf Manor officers responded to the  
18 scene as well as what's contained in paragraph VI D,  
19 whether, in your opinion, the Golf Manor -- Golf  
20 Manor officers were under the control or direction  
21 of Cincinnati?  
22 MR. HARDIN: Objection.  
23 MR. MORGAN: Same objections.  
24 A. No.

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1 Q. And why not?  
2 A. Because I don't know that any supervisor  
3 from -- or any commanding officer from Cincinnati  
4 gave them any direction.  
5 Q. But it does-- it doesn't say they have to,  
6 does it?  
7 MR. HARDIN: Object.  
8 Q. Doesn't it say they shall be?  
9 MR. HARDIN: Objection. Argumentative.  
10 MR. MORGAN: Join.  
11 A. "They will be under the lawful direction  
12 and authority." I don't know that any direction was  
13 given to them.  
14 Q. Okay. So you're not aware of any  
15 Cincinnati officer, in fact, directing them or  
16 asking them to do anything as it relates to Mr.  
17 Owensby?  
18 A. I don't recall anything at all --  
19 Q. Okay.  
20 A. -- about -- along that.  
21 Q. Are you aware of anyone from Cincinnati --  
22 when I say Cincinnati, I mean the Cincinnati Police  
23 Department.  
24 A. Okay.

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1 Q. Asking either of the Golf Manor officers  
2 to do something that was not done?  
3 MR. MORGAN: Foundation.  
4 A. I don't recall that --  
5 Q. Okay.  
6 A. -- no, sir.  
7 Q. You're not aware of anything?  
8 A. I -- I --  
9 Q. Correct?  
10 A. -- simply don't recall.  
11 Q. Okay. Are you aware of any of the  
12 Cincinnati officers requesting either Golf Manor  
13 officer to summon or request the fire department or  
14 any other type of medical assistance for Mr.  
15 Owensby?  
16 MR. MORGAN: Foundation.  
17 A. I don't recall that.  
18 Q. Okay. Chief Streicher, would you agree  
19 that the officers who participated in subduing  
20 the -- or the physical arrest of Mr. Owensby or the  
21 Macing of Mr. Owensby or placing Mr. Owensby in the  
22 back of a Golf Manor police cruiser were in a better  
23 position than the Golf Manor officers to assess Mr.  
24 Owensby's physical condition or need for medical

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1 care?

2 MR. FREUND: Objection.

3 MR. HARDIN: Objection.

4 MR. MORGAN: Foundation, speculation.

5 A. I don't know that that's accurate.

6 Q. Okay.

7 A. I -- I -- wouldn't -- certainly wouldn't

8 agree that that's accurate.

9 Q. The fact of the matter is, as you sit here

10 today, you're not certain or don't have specific

11 facts as to what either of the Golf Manor officers

12 saw or ability to see as it related to Mr. Owensby's

13 condition; is that true?

14 A. That's correct.

15 MR. MORGAN: Leading.

16 Q. Okay.

17 MR. WEISENFELDER: I have nothing further.

18 MR. FREUND: Are you -- are you going to

19 have any further questions?

20 MR. MORGAN: I may have one. I need to

21 parse this just a second. Yeah, I think one.

22 FURTHER CROSS-EXAMINATION

23 BY MR. MORGAN:

24 Q. Chief, when -- talking about paragraph D

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1 on page 7 of the compact, when you said -- it's my

2 understanding that the reason you discounted

3 reliance on this paragraph was because you weren't

4 aware of there having been a request from the City

5 to Golf Manor to come and provide assistance; is

6 that right?

7 A. Well, there was an all-- no, there's a --

8 there's a --

9 MR. HARDIN: There's going to be an

10 objection on misstatement, but go ahead.

11 A. There's a request. It's an all--

12 all-county broadcast goes out --

13 Q. Okay.

14 A. -- for assistance for officers. That goes

15 out. I read this as -- as if officers arrived there

16 and they have to take action, say to arrest

17 somebody, they could be acting with authority of

18 our -- of our jurisdiction.

19 The direction -- it -- it also provides

20 our officers, our commanders with the ability, Golf

21 Manor responds, Addyston responds, whoever, "Take a

22 traffic post, I want you to do this, this and this,"

23 while they're there under the conditions.

24 It's a very broad, very broad statement

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1 that -- that tries to allow some flexibility because

2 of the large number of incidents that can occur

3 where we cross jurisdictional lines.

4 Q. Do me a favor, Chief. Read aloud the last

5 two lines of paragraph D which are actually on the

6 next page. That sentence.

7 A. "Officers shall be subject to the code of

8 ethics, policies, and rules and regulations of their

9 employing Agency at all times."

10 MR. MORGAN: I have nothing further.

11 Thank you, Chief.

12 THE WITNESS: Okay.

13 MR. WEISENFELDER: Chief, I have one more.

14 THE WITNESS: Okay.

15 FURTHER CROSS-EXAMINATION

16 BY MR. WEISENFELDER:

17 Q. Do you know who drafted the --

18 MR. WEISENFELDER: Well, I -- you know, I

19 misspoke. I have more than one question. And

20 Neil's going to get upset, aren't you, Neil?

21 MR. FREUND: No. No. I don't -- I don't

22 easily get upset.

23 MR. WEISENFELDER: Good.

24 BY MR. WEISENFELDER:

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1 Q. Chief, do you know who drafted this

2 document?

3 MR. MORGAN: Asked and answered.

4 A. No.

5 Q. Okay.

6 A. I don't know who specifically wrote that.

7 Q. Did you have any role in drafting this --

8 this document?

9 A. No.

10 Q. Okay. Prior to today though, you had seen

11 it and you were familiar with it?

12 A. Oh, yes, sir.

13 Q. Okay. And you've had an opportunity to

14 read, I think, probably at least three times

15 paragraph VI D; is that right?

16 A. Yes.

17 Q. Okay. Would you agree that the reason for

18 that paragraph is that when you have a number -- or

19 potentially a number of other jurisdictions

20 responding to another jurisdiction, that someone has

21 to be in control? They all can't be in control?

22 Someone has to assume control and responsibility for

23 the officers that are responding to -- to direct

24 whatever needs to be done, whether it be traffic,